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FPMR (41 CFR) 101-11.206



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

83-2248

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September 20, 1983

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of Agriculture  
Department of Commerce  
Department of Defense  
Department of Education  
Department of Energy  
Department of Health and Human Services  
Department of Housing and Urban Development  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of State  
Department of Transportation  
Department of the Treasury  
Agency for International Development  
Central Intelligence Agency  
Environmental Protection Agency  
Office of Personnel Management  
National Aeronautics and Space Administration  
Tennessee Valley Authority  
U.S. Information Agency  
U.S. Postal Service  
Veterans Administration  
Administrative Office of the U.S. Courts

SUBJECT: General Services Administration (GSA) draft bill, "To revise certain provisions of chapter 57 of title 5, United States Code, relating to the subsistence allowances of Government employees while performing official travel, and for other purposes."

Attached for your information is a copy of GSA's draft bill to revise the per diem system for Federal employees in travel status, as submitted to the Congress on September 16, 1983.

The bill is a revision of an earlier draft which was circulated for agency comment.

*Jeffrey A. Weinberg*  
Jeffrey A. Weinberg for  
Assistant Director for  
Legislative Reference

Enclosures



General  
Services  
Administration

Washington, DC 20405

**SEP 16 1983**

Honorable Thomas P. O'Neill, Jr.  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

There is forwarded herewith for the consideration of the Congress a draft bill, "To revise certain provisions of chapter 57 of title 5, United States Code, relating to the subsistence allowances of Government employees while performing official travel, and for other purposes."

The principal purpose of the bill is to provide authority for payment of a locality-based flat rate per diem allowance for official travel instead of the current actual expense method of reimbursement for travel in high rate geographical areas (high rate areas). This proposal is in accord with the President's directive of July 30, 1981 (copy attached), which directs that the lead Federal travel policymaking agencies work together to streamline travel reimbursement policies including adoption of locality-based flat per diem rates for subsistence costs.

The enclosed draft bill, if enacted, would authorize the Administrator of General Services (Administrator) to implement a locality-based flat rate per diem system and to prescribe per diem rates administratively within a \$75 statutory maximum to reimburse civilian employees for subsistence expenses incurred during official travel within the continental United States.

The authority for reimbursement of actual and necessary expenses not to exceed \$75 per day for travel within the continental United States would be retained for use on an exception basis in situations when payment of a per diem allowance would be inadequate or inappropriate. There are instances when the administratively set per diem rate, while generally adequate, would be insufficient for a particular travel assignment either because of special duties, such as accompanying dignitaries, or protective service duty. Also, there are instances when subsistence costs may escalate for short periods of time for special events. For instance, during the 1-week missile launching period in March 1982 at Cape Kennedy, average lodging costs increased from \$43 to \$68.50 per day in the surrounding area.

The draft bill would also authorize payment of a "special per diem" allowance for travel outside the continental United States (including Alaska and Hawaii) when the per diem rate(s) administratively established by the Secretary of

Defense or State would be inadequate to cover the traveler's subsistence expenses. This "special per diem" would be limited to the total of \$33 plus the applicable locality per diem rate prescribed by the Secretary of Defense or State. The "special per diem" concept would replace the current authority for actual subsistence expense reimbursement for travel outside the continental United States and would be similar to the special per diem rates currently prescribed for travel of uniformed service personnel outside the continental United States.

Currently, civilian employees are entitled to a per diem allowance not to exceed a statutory maximum of \$50 per day for travel within the continental United States; or the employee may be reimbursed for actual and necessary subsistence expenses not to exceed a statutory maximum of \$75 per day when the per diem allowance is inadequate due to unusual circumstances or for travel to high rate areas. For travel outside the continental United States (including Alaska and Hawaii), the employee is entitled to a per diem allowance not to exceed the locality per diem rate(s) administratively set by the Secretary of Defense or State; or if the prescribed per diem allowance is inadequate, the employee may be reimbursed for actual and necessary subsistence expenses not to exceed the sum of \$33 plus the applicable locality per diem rate prescribed by the Secretary of Defense or State.

The per diem allowance for domestic travel (within the continental United States) is currently computed on the basis of the average cost the employee pays for lodging plus a flat allowance of \$23 to cover meals and miscellaneous subsistence expenses. However, the total daily rate computed under this method is limited to the statutory maximum of \$50. Since the maximum per diem rate is generally inadequate for travel to most metropolitan areas, it has become necessary to designate numerous high rate areas (currently 181) with rates from \$55 to the maximum \$75.

It was originally anticipated that the use of the high rate area concept would be limited to exceptionally high cost locations. However, increasingly more areas are becoming high rate areas because the \$50 per diem rate is often inadequate. The difficulty with the current high rate area concept and its statutory requirement for an actual expense method of reimbursement is that it requires detailed itemization of each day's expenses supported by receipts, at least for lodging costs. Many agencies also require receipts for meals. Preparing, reviewing, and auditing actual expense travel vouchers is administratively costly, time consuming, and burdensome.

In a report (AFMD 81-18, January 19, 1981) by the Comptroller General of the United States, U.S. General Accounting Office (GAO), on processing travel claims, it was concluded that the administrative cost of processing travel vouchers was \$400 million. The report also stated that processing costs for actual expense travel vouchers were 76 percent higher than for the per diem method. The GAO report advocates that the actual expense reimbursement method be eliminated for high rate area travel.

The Interagency Travel Management Improvement Project (ITMIP), under the auspices of the Office of Management and Budget, conducted an extensive review and analysis of travel management policies and procedures and agency practices

in the processing of travel documents. In its Report on Strengthening Federal Travel Management (July 1981), the ITMIP, after reviewing the GAO recommendations and other alternative reimbursement methods, endorsed the locality-based flat rate per diem system. The ITMIP estimated that implementation of such a system would (1) result in administrative cost reductions in processing travel vouchers, (2) be easier to use, (3) result in faster reimbursement and less paperwork, and (4) be fair to the traveler.

The locality-based flat rate per diem method being advocated for domestic travel is essentially the same method that has been used successfully for a number of years for overseas or international travel. The locality-based flat rate per diem method of reimbursement is advantageous because its simplicity enables employees to compute estimates for travel advance purposes and prepare travel voucher claims more easily. It also facilitates reviewing, approving, and auditing of travel vouchers by voucher examiners. The locality-based flat rate per diem method is also more responsive to variations in subsistence costs among different localities.

Implementation of the proposed locality-based flat rate per diem system will provide more efficient administration of the travel of Federal civilian employees. The overall cost impact of the locality-based flat rate per diem system would be minimal. We estimate that the direct cost impact on travel funds may be \$10 to \$12 million annually. This amount, however, will be minimized by retention of the current statutory ceiling and more than offset by the advantages of the system and the administrative cost savings (an estimated \$16 million for civilian travel) resulting from the simplified and less complicated reimbursement system.

Subsection 2(a) of the draft bill would amend 5 U.S.C. 5702(b) to authorize payment of an employee's emergency travel and transportation expenses from a temporary duty point to the employee's home or official station prior to completion of the temporary duty assignment when a personal emergency situation occurs such as serious illness, injury or death of a family member, or because of an emergency situation such as fire, or flood or other act of God. Currently, under the described circumstances, an employee is required to bear as a personal expense the cost of the return travel and transportation to the official duty station and return to the temporary duty point.

The Comptroller General of the United States has held in a series of decisions that the phrase "while traveling on official business" in 5 U.S.C. 5702(a) prohibits the payment of the per diem allowance and the cost of transportation in the described circumstances. (See 47 Comp. Gen. 59 (1967); 45 *id.* 299 (1965); 32 *id.* 571 (1953); 23 *id.* 237 (1943).) The Comptroller General of the United States by letter dated February 28, 1973, requested that the Administrator consider recommending legislation to correct this problem. The Comptroller General stated:

"We believe that it is inequitable to require an employee to pay the cost of travel to his home and return to his temporary duty station upon the serious illness or injury, or death of a member of his immediate family since his absence from his home results from the Government's action. Therefore, it is

our opinion that an amendment to the Travel Expense Act, Chapter 57 of title 5, United States Code, is desirable to correct this situation. Such an amendment would reimburse the additional travel expenses incurred by employees who, through no fault of their own, find themselves away from home on official business at a time of emergency. For the reasons stated we believe that legislation to correct this problem deserves the consideration of the Congress."

The General Services Administration (GSA) is in full accord with the views expressed by the Comptroller General. Reimbursement for emergency travel is an accepted practice in private industry for employees on temporary duty away from home. Requiring employees to pay these costs is inequitable and has resulted in some instances of extreme financial hardship for Government employees. Reimbursement for emergency travel is presently authorized for uniformed service personnel and employees of the Foreign Service and certain agencies located abroad (37 U.S.C. 411e; 22 U.S.C. 4081(9); 7 U.S.C. 1766c; 49 U.S.C. 1344). Enactment of the proposed legislation would extend these benefits to all Federal civilian employees stationed within this country as well as those stationed abroad including experts, consultants, and individuals serving without pay as described in 5 U.S.C. 5701(2) and 5703. It is not intended that enactment of this proposal would diminish the authority of the Secretary of State to prescribe regulations for the performance of travel by members of the Foreign Service.

Because of the nature of emergencies, which are inherently difficult to predict, we have been unable to gather definitive data as to the cost that would be incurred if this provision of the bill would be enacted. However, we believe that the cost impact, if any, will be minimal.

The draft bill (subsection 2(b)) also includes provisions endorsed by the Department of Justice (DOJ) for payment of transportation and per diem for employees in a law enforcement, investigative, protective or other capacity involving control of organized crime, and/or their families who must be temporarily housed away from their homes because of threats to life or property resulting from the employee's assigned duties. The DOJ states that this problem has existed in the Department for a number of years and it is present practice to relocate threatened officers and their families, at great expense, because the law and regulations do not allow payment of per diem at an employee's official duty station. (5 U.S.C. 5702 currently authorizes per diem allowances only for the employee for travel away from the post of duty.)

These proposed temporary per diem payments at or near the vicinity of the official station are particularly pertinent to the law enforcement officers of the Drug Enforcement Administration, the Federal Bureau of Investigation, and the Immigration and Naturalization Service. However, these provisions could also apply to any other agency with employees in similar situations such as employees of the Secret Service or an Inspector General and staff, who may be involved in crime control activities.

It is anticipated that among the three mentioned law enforcement bureaus of the DOJ, as many as 28 relocations will be necessary annually for the protection of law enforcement officers' lives and the safety of their families.

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If the proposed authority is enacted, per diem payments could be made for 30 to 60 days instead of relocating these agents and their families. The DOJ estimates that the maximum per diem for the 28 officers, assuming three family members each, would be \$115,000 (\$175,000 less than relocation costs). The \$115,000 is a maximum amount; the DOJ believes a more realistic figure would be about one third of that amount since they expect that the temporary housing would not require 60 days, or that in most cases the maximum amount would not be necessary. It is expected that in most cases the only additional expenses that would be incurred would be for lodging since the provision of meal expenses would normally be the agent's responsibility. However, reasonable reimbursement for meals and other miscellaneous expenses and for transportation expenses would be included where justified.

Section 3 of the draft bill provides for modification and continuance of an expired reporting requirement. Section 3 of Public Law 96-346 (September 10, 1980) required the Administrator to conduct a travel survey and report to the Congress certain information on travel and transportation payments and agency travel practices. The statistical data generated by this statutorily required survey have proven invaluable. These data have been the only centralized data source available upon which to base cost impact estimates. However, that reporting requirement expired with the survey of fiscal year 1981.

The attached draft bill would amend 5 U.S.C. 5707 to require a reporting system similar to that previously required by Public Law 96-346, but less detailed and restrictive, in order to impose the least burden possible on GSA and the reporting agencies. The type of information collected under Public Law 96-346 would continue to be collected, but not on an annual basis as a general rule. Instead, the information would be collected at least every 2 years and on a sampling basis to the extent feasible, from selected agencies spending \$5,000,000 or more annually on travel.

This proposed reporting requirement would give the Administrator adequate authority to collect sufficient detail on travel costs to provide a data base on which to estimate basic travel costs without establishing a rigid, inflexible requirement as to the type of data to be collected on a regular basis.

Section 4 of the draft bill provides that the amendments shall be effective 90 days from date of enactment to allow time for regulatory implementation of the new reimbursement system.

The General Services Administration recommends prompt and favorable consideration of this draft bill. The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

(Signed) Ray Kline  
Deputy Administrator

3 Enclosures

THE WHITE HOUSE  
WASHINGTON

July 30, 1981

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES  
SUBJECT: Strengthening Federal Travel Management

The Federal Government will spend almost \$4 billion in fiscal year 1981 on travel. Although most of this travel is required to carry out agency programs, instances of mismanagement and wasteful spending have continued to surface over the years. To improve the management of federal travel, I am directing that the following changes be made to travel policies and practices and would urge that the lead agencies work with the rest of the Executive Branch as they implement these recommendations:

- Separate travel regulations for civilian employees, foreign service, and uniformed services will be simplified, standardized, and updated to assure consistent treatment of all federal travelers.
- Travel authorization policies will be tightened, including a reduction in the use of general travel authorizations.
- Travel services for agency employees will be improved at headquarters and principal field locations, including greater use of commercial ticketing and travel services and available discounts.
- Greater efforts will be made in cooperation with the travel industry to expand the availability and use of transportation, lodging, and other travel-related discounts for federal travelers.
- Travel reimbursement policies will be streamlined to include adoption of locality-based flat per diem rates for subsistence costs, improved controls over travel advances, and simplified voucher processing.

Effective implementation of these improvements will require a coordinated effort by those agencies with travel policy and oversight responsibilities. Accordingly, I am directing the Secretary of State, the Secretary of Defense, the Director of the Office of Personnel Management, and the



Administrator of General Services to implement the necessary changes to the regulations they promulgate. I have asked the Director of the Office of Management and Budget to coordinate the implementation activities.

These improvements are an important part of this Administration's economic reform program and its efforts to reduce wasteful federal spending. I expect the results of the improvement to include:

- annual cost savings of over \$200 million, consisting of \$116 million in direct travel expenditures and \$85 million in travel-related administrative costs;
- improved control and management of agency travel expenditures; and
- accelerated reimbursements to travelers and payments to carriers.

*Ronald Reagan*

## SECTION-BY-SECTION ANALYSIS

Section 1.

This section provides the short title of the bill. It may be cited as the "Civilian Travel Expense Amendments Act of 1983."

Section 2.

Subsection 2(a) of the draft bill proposes to revise 5 U.S.C. 5702(a), (b), (c) and (d) as follows:

a. The proposed revision to subsection 5702(a) would provide the authority to establish a locality-based flat rate per diem reimbursement system. The current statutory maximum per diem rate (\$50) would be eliminated and the Administrator of General Services (Administrator) would be authorized to establish maximum locality per diem rates administratively for civilian employee travel inside the continental United States up to a maximum of \$75. It is intended that the results of the travel cost studies performed under 5707(b) will be only a factor considered in establishing the per diem rates and that the Administrator will retain discretion in establishing the proper level of rates. The Administrator would also retain full flexibility to prescribe the methodology for computing and applying per diem rates. As currently provided by executive order, the Secretary of Defense will prescribe maximum locality per diem rates for civilian employee travel in nonforeign areas (outside the continental United States) and the Secretary of State will prescribe maximum locality per diem rates for civilian employee travel in foreign areas.

The new locality-based flat rate per diem authority would replace the actual expense authority for travel in high rate geographical areas currently provided in 5 U.S.C. 5702(c)(2).

b. The proposed revision to subsection 5702(b) would authorize the Administrator to provide by regulation for payment of travel and transportation expenses under certain emergency situations. The law, 5 U.S.C. 5702(b), currently authorizes payment of travel and transportation expenses from a temporary duty (TDY) point to the employee's home or official station when the employee becomes incapacitated by illness or injury not due to his own misconduct.

If amended, subsection 5702(b) would also authorize payment of an employee's travel and transportation expenses from a TDY point to his/her home or official station when, prior to completion of the employee's TDY assignment, a personal emergency situation occurs, such as serious illness, injury, or death of a member of the employee's family or a crisis involving home or property (fire, floods, etc.). If after returning an individual to his/her official duty station because of an emergency situation described, the agency determines it is in the best interest of the Government to send the employee back to the TDY station, such travel would be considered a new travel assignment at Government expense.

The term "family" as used in the draft bill is intended to be a generic term which would be further defined by regulation and could include family members outside the immediate household such as parents and brothers and sisters of either the employee or spouse, depending on circumstances. The regulations also would define the terms "personal emergency" and "act of God" for purposes of this section.

c. The proposed revision to subsection 5702(c) would authorize the Administrator to prescribe conditions under which an employee may be reimbursed, not in excess of \$75 per day, for the actual and necessary subsistence expenses of official travel within the continental United States in instances when the administratively established per diem rate is inadequate or payment of a per diem allowance is inappropriate. It is intended that this authority would be similar to the current authority for reimbursement of actual and necessary expenses of travel due to the unusual circumstances of the travel assignment.

The concept of actual expense reimbursement for travel to high rate geographical areas has also been eliminated since subsistence expense reimbursement for high rate geographical area travel would be included under the proposed locality-based flat rate per diem system. The term "unusual circumstances of the travel assignment" has been eliminated as unnecessary under the provisions of the draft bill.

d. The proposed revision to subsection 5702(d) would authorize the Administrator to prescribe conditions under which an employee may be paid a "special per diem" allowance instead of actual and necessary subsistence expenses for travel outside the continental United States when the regular per diem allowance established under 5 U.S.C. 5702(a)(2) is inadequate to cover these expenses. The current statutory maximum which is based on the appropriate locality per diem rate plus \$33 would be retained. The intent of this proposal is to change the actual expense reimbursement authority currently contained in subsection 5702(d) to a per diem payment basis. This change would provide uniformity between civilian employees and uniformed service personnel in the payment or reimbursement of subsistence allowances for travel outside the continental United States when the regular per diem rates are inadequate.

Subsection 2(b) of the draft bill proposes to redesignate the current 5 U.S.C. 5702(e) to subsection 5702(f) and to add a new subsection 5702(e) to permit the Administrator to authorize payment of transportation and subsistence expenses for an employee and/or immediate family under certain crisis conditions. This proposed authority would authorize the payment of subsistence expenses for the employee and/or immediate family when they must be evacuated from their home to another location, usually within the official station vicinity, because of threat to life or property resulting from the employee's assigned duties. This would be a special provision applying only to employees in a law enforcement, investigative, protective or other capacity involving organized crime. It has been requested by the Department of Justice. However, this authority would be applicable to employees of any agency in similar situations. It is expected that regulations implementing this new authority would require

the agency head to review circumstances surrounding the need to temporarily move an employee and/or family from their home and to authorize or approve payment of these subsistence and transportation expenses on an individual case basis.

### Section 3.

This section provides for a new subsection 5707(c) which will provide authority for the Administrator to collect transportation and travel payments data on a continuing but not regular basis. The requirements of the new subsection are a modification of the now expired congressional reporting requirement imposed on the Administrator by Public Law 96-346 but less detailed and restrictive so as not to impose an undue burden on GSA or the reporting agencies. The information would be collected at least every 2 years, on a sampling basis to the extent feasible, by those agencies spending \$5,000,000 or more annually on travel. This would give GSA the flexibility to collect mileage data one time, and per diem data 2 years later, without burdening its staff and the staffs of the reporting agencies with the necessity to amass all categories of spending data every time.

GSA does not contemplate seeking information more often than every 2 years, but an annual collection for special purposes would not be precluded. Information on discount fares would not be collected from the agencies, inasmuch as that information can be provided at least partially through other sources such as the travel management centers. Information on the use of first-class air accommodations will not be collected on a regular basis, because GSA found in past reports that such usage is not a significant problem. However, information on that practice could be developed as needed from time to time. The proposed reporting requirement would also include collection of data on employee relocation payments but only on an as needed basis.

### Section 4.

This section provides for a delayed effective date to allow time for regulatory implementation.

A BILL

"To revise certain provisions of chapter 57 of title 5, United States Code, relating to the subsistence allowances of Government employees while performing official travel, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civilian Travel Expense Amendments Act of 1983."

Sec. 2. Section 5702 of title 5, United States Code, is amended--

(a) by revising subsections 5702(a), (b), (c) and (d) to read as follows:

"(a) Under regulations prescribed under section 5707 of this title, an employee while traveling on official business away from his designated post of duty or in the case of an individual described under section 5703 of this title, his home or regular place of business, is entitled to (1) a per diem allowance for travel inside the continental United States at a rate not in excess of the rate(s) established by the Administrator of General Services, or his designee, which shall not exceed \$75 per day and may be established by locality, and (2) a per diem allowance for travel outside the continental United States at a rate not in excess of the rate(s) established by the President, or his designee, for each locality where travel is performed. For travel consuming less than a full day, such rate(s) may be allocated proportionately.

(b) Under regulations prescribed under section 5707 of this title, the Administrator, or his designee, may prescribe conditions under which an employee who, while traveling on official business away from his designated post of duty or, in the case of an individual described under section 5703 of this title, his home or regular place of business-- (1) becomes incapacitated by illness or injury not due to his own misconduct, or (2) returns, prior to the completion of his assignment, and with the approval of the agency concerned, to his designated post of duty, or home or regular place of business, because of a personal emergency situation such as serious illness, injury, or death of a member of his

family, or an emergency situation such as fire, or flood or other act of God, is entitled to the per diem allowance and appropriate transportation expenses to his designated post of duty, or home or regular place of business as the case may be.

(c) Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel within the continental United States when the per diem allowance otherwise allowable is determined to be inadequate or payment of a per diem allowance is otherwise inappropriate. However, such reimbursement shall not exceed \$75 for each day in a travel status.

(d) Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee may be paid a special per diem allowance for official travel outside the continental United States when the per diem allowance otherwise allowable is inadequate to cover the actual and necessary expenses of such travel. However, the special per diem allowance shall not exceed the total sum of \$33 plus the per diem rate prescribed under subsection 5702(a)(2) of this section for the locality in which the travel is performed."

(b) by redesignating subsection 5702(e) as subsection (f), and adding a new subsection (e) to read as follows:

"(e) Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee who serves in a law enforcement, investigative, protective or other capacity, and/or members of his immediate family may be authorized a per diem allowance by the head of the agency concerned, under the provisions of subsection (a) of this section, when necessarily occupying temporary living

accommodations at or away from the employee's designated post of duty, and transportation to and from such location, because of threat to life or property or because law enforcement, investigative, or protective interests may be compromised."

Sec. 3. Section 5707 of title 5, United States Code, is amended by adding new subsection (c) to read as follows:

"(c) In order to review and to develop an analysis of estimated total agency payments for travel and transportation of people, average costs and duration of trips, purposes of official travel, etc., the Administrator of General Services periodically, but at least every 2 years, shall collect information on travel and transportation payments, based on a sampling survey to the extent feasible, with respect to agencies spending more than \$5,000,000 annually on such payments. Such collection of information may also include data on employee relocation expense payments."

Sec. 4. The amendments made by this Act shall be effective 90 days from the date of enactment.